

AGREEMENT, made this 25 day of October, 1967,
between GREAT NORTHERN RAILWAY COMPANY, a corporation,
hereinafter called the "Railroad", and ANACONDA ALUMINUM
COMPANY, a corporation, hereinafter called the "Industry",

WITNESSETH:

The parties hereto are parties to an agreement dated
February 5, 1954, as amended by supplemental agreements dated
December 15, 1958 and May 11, 1964, and are parties to
agreements dated January 25, 1956 and August 20, 1965, each
relating to the construction, maintenance and operation of a
system of trackage at Industry's plant at Conkelley, Montana.
Because of extensive track rearrangement and construction
the parties desire to terminate each of said agreements and
provide in this agreement for the rearrangement, construction,
maintenance, and operation of said system of plant trackage,
as shown colored red, dashed red, dashed green, yellow, brown,
orange, dashed orange, and purple on the plan attached hereto
and made a part hereof marked Exhibit "A".

NOW, THEREFORE, it is mutually agreed between the
parties as follows:

Section 1. The Industry shall first procure and
furnish without expense to the Railroad all necessary right of
way, including all necessary public authority and permission
for the rearrangement, construction, maintenance and operation
of the track.

Section 2. The Industry, at its expense, shall do all excavation and grading, and shall furnish a derrick to move all switches, rail, and appurtenances, necessary for the rearrangement and construction of said track.

The Railroad, at the expense of the Industry, shall construct the track shown colored brown on said exhibit, and shall rearrange the track shown colored yellow on said exhibit to the location shown colored dashed red and dashed green.

The Railroad, at its own expense, shall construct the track shown colored purple, and dashed orange on said exhibit.

The Railroad, at the expense of the Industry, shall maintain the track shown colored brown, red, and dashed red on said exhibit. The Railroad, at its own expense, shall maintain the track shown colored purple, orange, dashed orange, and dashed green on said exhibit.

The Industry shall own the track shown colored brown, red, and dashed red on said exhibit. The Railroad shall own the track shown colored purple, orange, dashed orange and dashed green on said exhibit.

In the event of separation of the grade of said track and of any highway being ordered by public authority, the Industry will indemnify the Railroad against any expense in connection therewith or consent to the removal of the track.

Section 3. Upon completion of said rearrangement and construction the Industry shall pay to Railroad the actual

cost of the work and materials furnished by the Railroad at the expense of the Industry hereunder, which cost is estimated at \$155,059.00.

The Industry shall pay to the Railroad from time to time the cost of the maintenance, additions and betterments, done by the Railroad, herein agreed to be borne by the Industry, within twenty days after bills are rendered therefor.

Should the Industry do any work of construction, maintenance, or of additions and betterments, it shall do such work in substantial and workmanlike manner, and in accordance with the Railroad's standards. If the Industry fails to pay the bills for the maintenance of the track within the prescribed time the Railroad may refuse to operate over it.

Section 4. "Cost" for the purpose of this agreement shall be actual labor costs plus assignable additives for payroll taxes, vacation allowances, and insurance against employers' liability; material and supplies to be charged at current value where used. Rental for equipment shall be on a no-profit basis to the Railroad. Necessary engineering and superintendence shall be provided by the Railroad without cost to the Industry.

Section 5. The Railroad shall have the right to use the track when not to the detriment of the Industry.

*Only for crossing
The Ana Alum Co and
No others*

Section 6. The Industry shall not place, or permit to be placed, or to remain, any material, structure, pole or other obstruction within 8-1/2 feet laterally of the center or within 23 feet vertically from the top of the rail of said track; provided that if by statute or order of competent public authority greater clearances shall be required than those provided for in this Section 6, then the Industry shall strictly comply with such statute or order.

Section 7. The Industry shall pay all compensation and assessments required at any time by any municipality, public authority, corporation or person, for the privilege of constructing, maintaining and operating said track.

Section 8. The Industry agrees to indemnify and hold harmless the Railroad for loss, damage or injury from any act or omission of the Industry, its employees, or agents, to the person or property of the parties hereto and their employees, and to the person or property of any other person or corporation, while on or about said track; and if any claim or liability shall arise from the joint or concurring negligence of both parties hereto it shall be borne by them equally.

Section 9(a) The Railroad, at its expense, has heretofore installed and shall continue to own, maintain, operate and control two derail devices at the respective locations shown by the letters "X" and "X1" on said exhibit. Railroad shall have the sole possession of the keys to operate and protect each of these derail devices.

(b) The Railroad grants to the Industry the right to operate Industry's diesel locomotive over the tracks of Railroad located as shown colored orange, dashed orange and dashed green on said exhibit, limited to the following purposes only:

(1) To transfer said diesel locomotive in a through movement between Industry's tracks west of the "Casting Building" designated on said Exhibit A and the Industry's tracks east thereof;

and,

(2) To receive or deliver cars in interchange with the Railroad.

(c) The Industry shall cause said diesel locomotive to be equipped, maintained, and operated, while on the tracks of the Railroad, in all respects in strict accordance with the Statutes of the United States and all valid orders of the Interstate Commerce Commission or other public authority, and the Industry shall indemnify and hold harmless the Railroad from and against any and all loss, cost or expense, including penalties which may result by reason of the failure of the Industry to comply strictly with this covenant.

(d) The privilege granted to the Industry pursuant to this Section 9 is granted without compensation to the Railroad and for the sole benefit of the Industry, and in consideration therefor the Industry agrees to assume and

bear and to indemnify and save harmless the Railroad against all claims, liabilities, costs, and expenses for loss, damage, or injury to the person or property of the parties hereto and their employes and to the person and property of any other person or corporation in any manner resulting from the use of the said diesel locomotive upon the said tracks of the Railroad, however the same may be caused and regardless of any negligence of the Railroad contributing to the same, including collisions between the cars and engines of the Railroad and the said diesel locomotive, except that the Industry shall not be liable hereunder for loss, damage, or injury occurring by reason of the sole negligence of the Railroad.

Section 10. The Industry shall not assign this agreement or any interest therein without the written consent of the Railroad, and for any departure in this respect the Railroad may terminate this agreement.

Section 11. This agreement shall be effective October 1, 1967 1967 and shall continue in effect thereafter until terminated by either party upon ninety (90) days' advance written notice to the other party.

Section 12. This agreement, upon its execution, supersedes and terminates the agreement between Railroad and Industry dated February 5, 1954 as amended by supplemental agreements dated December 15, 1958 and May 11, 1964, and

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supersedes and terminates the agreements between these parties
dated January 25, 1956 and August 20, 1965, and each of said
agreements is hereby cancelled and terminated without prejudice
to any existing liability.

IN WITNESS WHEREOF, the parties hereto have executed
this agreement the day and year first hereinabove written.

GREAT NORTHERN RAILWAY COMPANY

By


Vice President

ANACONDA ALUMINUM COMPANY

By


Vice President

APPROVED AS TO TERMS AND CONDITIONS

DATE _____

BY _____

DESCRIPTION CORRECT

DATE _____

BY _____

APPROVED AS TO FORM

DATE _____

BY _____